

UNITED STATES DISTRICT COURT

JOSEPH P. SCHMITT, pro se
Plaintiff,

v.

ROBERT MURPHY, et al.,
Defendants.

C.A. No. 2005-11348-NG

FILED
IN CLERKS OFFICE
2007 DEC 13 PM 12:03
U.S. DISTRICT COURT
DISTRICT OF MASS.

PLAINTIFF'S OPPOSITION TO, DEFENDANTS' MOTION
FOR EXTENSION OF TIME TO FILE RESPONSE TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT

Now comes the pro se plaintiff, Joseph P. Schmitt, and opposes the defendants motion for extension of time to file response to plaintiff's motion for summary judgment.

As grounds plaintiff states the following:

1. Plaintiff filed this action on or about 6/22/05.
2. Defendants did not file an answer to complaint until after the pro se plaintiff filed for and received default on defendants which was about May 31, 2007.
3. Defendants clearly had ample time to file any and all responsive pleadings in this case but chose to procrastinate and ignore this case as though it would magically disappear into thin air.
4. Defendants legal department has over one hundred Bar certified attorneys at their disposal, yet they make the informed decisions to further overextend counsel of record, at the cost of plaintiff being subjected to further delays and seperation from his lawful personal property.
5. In civil action PLCV2007-00575 Schmitt v. Pushkina, counsell's sister, attorney Jody A. Brenner so eloquently opposed plaintiff's motion for extension of time to file an opposition. See attached exhibit #1.
6. If plaintiff is subject to the Rules of Civil Procedure, then it is a given that Bar Certified Counsel of the Commonwealth are held to the same rules and a higher expectation of obeying such rules to the very letter. Clearly defendants' counsel, Brendan J. Frigault is an experience litigator and knows the rules of civil procedure.
7. Plaintiff has the right to justice without delay. See Art. XI of the Constitution of the Commonwealth of Massachusetts.

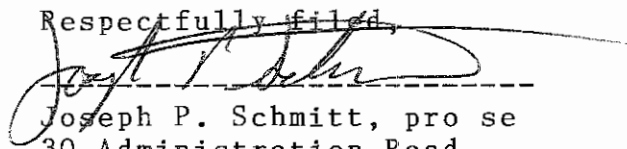
8. Considering the track record of the defendants' counsel just in the case(s) at bar, plaintiff states that any extension would be a disrepect to this Court, the Laws of the Commonwealth and the United States and towards the pro se indigent plaintiff himself.

9. An extension of time is not a guaranteed right, but is a discretion of the Court, not to be freely handed out to those who clearly have no regard for the relevant rules of procedural and substantive law.

Wherefore, plaintiff prays this Honorable Court deny defendants motion for extension of time to file response to plaintiff's motion for summary judgment, based on the defendants blatant disregard for the relevant rules of procedural and substantive law. Plaintiff further moves that this Court rule on his motion for summary judgment within the time limits allowed and dictated by letter of law and/or those of federal civil procedure.

Dated: December 10, 2007

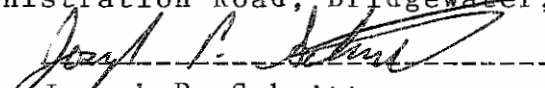
Respectfully filed,



Joseph P. Schmitt, pro se
30 Administration Road
Bridgewater, Massachusetts
02324-3230

CERTIFICATE OF SERVICE

I, Joseph P. Schmitt, hereby certify that a true copy of the above has been served upon opposing counsel via inter department mail on or about 12/11/2007 at 20 Administration Road, Bridgewater, MA., 02324-3230



Joseph P. Schmitt, pro se
Plaintiff



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Kevin M. Burke
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Department of Correction
Legal Division
70 Franklin St., Suite 600
Boston, Massachusetts 02110-1300
Tel: (617-727-3300 Ext. 124)
www.mass.gov/doc



James R. Bender
Acting Commissioner

Timothy Hall
Acting Deputy Commissioner

Nancy Ankers White
General Counsel

November 16, 2007

Civil Clerk
Plymouth Superior Court
52 Obery Street
Plymouth, MA 02360

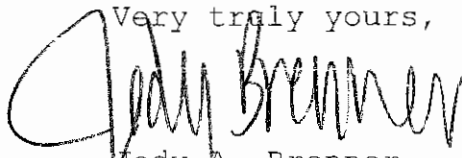
RE: Schmitt v. Pushkina, et al.
No. 07-00575

Dear Madam/Sir:

Enclosed for filing in the above referenced matter, please find Defendants' Opposition To Plaintiff's Motion To Enlarge Time and exhibit, along with a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,


Jody A. Brenner
Counsel

cc: Joseph Schmitt, Mass. Treatment Center
Kevin Mulvey, Esq.

Exhibit #1

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT

C.A. No. 07-00575

JOSEPH SCHMITT,

Plaintiff,

vs.

NATALYA PUSHKINA, ET AL.

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION TO ENLARGE TIME**

The Department of Correction defendants hereby oppose "Plaintiff's Emergency Motion for Enlargement of Time to Respond to the Department of Correction Defendants' Motion to Dismiss, or in the alternative, Motion for Summary Judgment."

As grounds therefore, the DOC defendants state as follows:

1. Plaintiff filed this lawsuit on or about May 4, 2007. See docket sheet, attached hereto as Exhibit 1.
2. Approximately ten days after plaintiff filed the complaint, he unsuccessfully attempted to stay the action. See docket entry 5, dated May 14, 2007 and entry 6, dated May 15, 2007.
3. The Department of Correction defendants filed a Motion to Dismiss on or about September 5, 2007. See docket entry 28. Plaintiff was served with a copy of this motion. See certificate of service, attached to defendants' Motion to Dismiss.
4. On September 6, 2007, this Court stated that "plaintiff has 30 days to respond," to defendants' Motion to Dismiss. See docket entry 29.
5. Counsel for defendants received a copy of the notice from the Court with the September 6, 2007 ruling.
6. Although plaintiff claims he never received the DOC defendants' Motion to Dismiss, or the clerk's notice dated September 6, 2007, the docket sheet

reflects that docket sheets were mailed to plaintiff on September 28, 2007. See docket entry 30.

7. Given that he received copies of the docket sheet, plaintiff has been on notice since **September 2007** that the Department of Correction defendants filed a dispositive motion and that he had been instructed by the Court to respond within thirty days. Id.
8. If Schmitt did not have a copy of the DOC Defendants' Motion to Dismiss as of September 2007, one would think that he would have requested a copy sooner than November 6, 2007.
9. It is noteworthy that plaintiff has also failed to respond to Defendant Pushkina and Botelho's Motion for Summary Judgment, filed on August 29, 2007. See docket entry 26.
10. Plaintiff now requests an unreasonable enlargement of time until **February 15, 2008**, to respond to the Department of Correction's Motion to Dismiss, which was filed more than two months ago.
11. In a Motion filed before the Court of Appeals for the First Circuit days ago, attached hereto, plaintiff admitted that he was "overstretched and just recently has been able to actively file oppositions and other such motions in his numerous State and Federal civil actions." See Motion for Enlargement of Time To File Brief, attached hereto as Exhibit 2.
12. The fact that plaintiff has overextended himself with dozens of lawsuits does not grant him license to disregard deadlines and ignore the rules of civil procedure.
13. Prisoners, simply because of their status as prisoners, are not afforded carte blanche to flaunt the rules of civil procedure. "The right of self-representation is not 'a license not to comply with the relevant rules of procedural and

substantive law." International Fidelity Ins. Co. v. Wilson, 387 Mass. 841, 847 (1983), quoting Faretta v. California, 422 U.S. 806, 834-835 n.46 (1975).

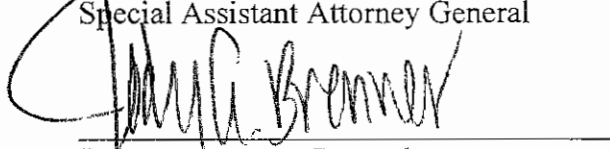
14. The established law in Massachusetts is that pro se litigants are bound by the same rules of civil procedure as litigants with counsel. Broussard v. West Roxbury Dist. Court, 417 Mass. 183, 629 N.E.2d (1994); Friedman v. Board of Registration in Medicine, 414 Mass. 663, 666 (1993); Mmoe v. Commonwealth, 393 Mass. 617, 620 (1985) Kornatowski v. Family Mutual Savings Bank, 388 Mass. 1011 (1983); International Fidelity Ins. Co. v. Wilson, 387 Mass. 841, 847 (1983). Pidge v. Superintendent, Mass. Correctional Institution, Cedar Junction, 32 Mass. App. Ct. 14, 15 (1992)(prisoner case).

Wherefore, the Department of Correction defendants respectfully request that this Court deny plaintiff's Emergency Motion to Enlarge time.

Respectfully submitted,

NANCY ANKERS WHITE
Special Assistant Attorney General

DATED: November 16, 2007

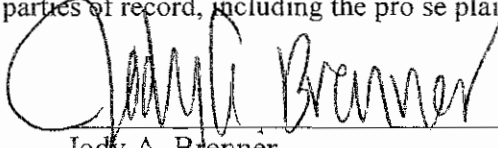


Jody A. Brenner, Counsel
B.B.O. # 633795
Department of Correction
Legal Division
70 Franklin Street, Suite 600
Boston, MA 02110-1300
(617) 727-3300 ext. 169

CERTIFICATE OF SERVICE

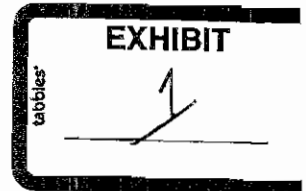
I hereby state under the pains and penalties of perjury that I did this day serve a photocopy of the above document upon all parties of record, including the pro se plaintiff, via first class mail.

Date: 11/16/07



Jody A. Brenner

**Commonwealth of Massachusetts
SUPERIOR COURT
Case Summary
Civil Docket**



Schmitt v Pushkina et al

Details for Docket: PLCV2007-00575

Case Information

Docket Number:	PLCV2007-00575	Caption:	Schmitt v Pushkina et al
Filing Date:	05/04/2007	Case Status:	Needs review for service
Status Date:	05/04/2007	Session:	Civil B - 3rd Floor- (52 Obery St., Plymouth)
Lead Case:	NA	Case Type:	Most

Tracking Deadlines

TRK:	A	Discovery:	04/23/2009
Service Date:	08/02/2007	Disposition:	04/18/2010
Rule 15:	07/27/2008	Rule 12/19/20:	10/01/2007
Final PTC:	10/20/2009	Rule 56:	06/22/2009
Answer Date:	09/01/2007	Jury Trial:	NO

Case Information

Docket Number:	PLCV2007-00575	Caption:	Schmitt v Pushkina et al
Filing Date:	05/04/2007	Case Status:	Needs review for service
Status Date:	05/04/2007	Session:	Civil B - 3rd Floor- (52 Obery St., Plymouth)
Lead Case:	NA	Case Type:	Declaratory judgement (231A)

Tracking Deadlines

TRK:	A	Discovery:	04/23/2009
Service Date:	08/02/2007	Disposition:	04/18/2010
Rule 15:	07/27/2008	Rule 12/19/20:	10/01/2007
Final PTC:	10/20/2009	Rule 56:	06/22/2009
Answer Date:	09/01/2007	Jury Trial:	NO

Parties Involved

10 Parties Involved in Docket: PLCV2007-00575

Party

Involved:

Last Name: Botelho
Address: Nemasket Correctional Facility
City: Bridgewater
Zip Code: 02324
Telephone:

Role:

Defendant

First Name:

Manuel

Address:

30 Administration Rd.

State:

MA

Zip Ext:**Party****Involved:**

Last Name: Brady
Address:
City:
Zip Code:
Telephone:

Role:

Defendant

First Name:

Elizabeth

Address:**State:****Zip Ext:****Party****Involved:**

Last Name: Frigault
Address: Nemasket Correctional Facility
City: Bridgewater
Zip Code: 02324
Telephone:

Role:

Defendant

First Name:

Bendan

Address:

30 Administration Rd

State:

MA

Zip Ext:**Party****Involved:**

Last Name: Mansfield
Address: Nemasket Correctional Facility
City: Bridgewater
Zip Code: 02324
Telephone:

Role:

Defendant

First Name:

Brian

Address:

30 Administration Rd.

State:

MA

Zip Ext:**Party****Involved:**

Last Name: Murphy
Address:
City:
Zip Code:
Telephone:

Role:

Defendant

First Name:

Joseph

Address:**State:****Zip Ext:****Party**

Involved:		Role:	Defendant
Last Name:	Murphy	First Name:	Robert
Address:	Nemasket Correctional Facility	Address:	30 Adiministration Rd.
City:	Bridgewater	State:	MA
Zip Code:	02324	Zip Ext:	
Telephone:			
Party Involved:		Role:	Defendant
Last Name:	Murray	First Name:	Mary
Address:	Nemasket Correctional Facility	Address:	30 Administration Rd.
City:	Bridgewater	State:	MA
Zip Code:	02324	Zip Ext:	
Telephone:			
Party Involved:		Role:	Defendant
Last Name:	Pushkina	First Name:	Natalya
Address:	Nemasket Correctional Facility	Address:	30 Administration Rd.
City:	Bridgewater	State:	MA
Zip Code:	02324	Zip Ext:	
Telephone:			
Party Involved:		Role:	Defendant
Last Name:	Thomas	First Name:	Michael
Address:	Nemasket Correctional Facility	Address:	30 Administration Rd.
City:	Bridgewater	State:	MA
Zip Code:	02324	Zip Ext:	
Telephone:			
Party Involved:		Role:	Plaintiff
Last Name:	Schmitt	First Name:	Joseph
Address:	Nemasket Correctional Center	Address:	30 Administration Road
City:	Bridgewater	State:	MA
Zip Code:	02324	Zip Ext:	
Telephone:			

Attorneys Involved

9 Attorneys Involved for Docket: PLCV2007-00575

Attorney Involved:		Firm Name:	MULV01
Last Name:	Mulvey	First Name:	Kevin W
Address:	1244 Boylston Street	Address:	Suite 200
City:	Brookline	State:	MA
Zip Code:	02467	Zip Ext:	
Telephone:	617-278-1881	Tel Ext:	309
Fascimile:	617-278-1888	Representing:	Pushkina, Natalya (Defendant)

Attorney Involved:		Firm Name:	MULV01
Last Name:	Mulvey	First Name:	Kevin W
Address:	1244 Boylston Street	Address:	Suite 200
City:	Brookline	State:	MA
Zip Code:	02467	Zip Ext:	
Telephone:	617-278-1881	Tel Ext:	309
Fascimile:	617-278-1888	Representing:	Botelho, Manuel (Defendant)

Attorney Involved:		Firm Name:	MA14
Last Name:	Brenner	First Name:	Jody A
Address:	70 Franklin Street	Address:	Suite 600
City:	Boston	State:	MA
Zip Code:	02110	Zip Ext:	1300
Telephone:	617-727-3300	Tel Ext:	169
Fascimile:	617-727-7403	Representing:	Thomas, Michael (Defendant)

Attorney Involved:		Firm Name:	MA14
Last Name:	Brenner	First Name:	Jody A
Address:	70 Franklin Street	Address:	Suite 600
City:	Boston	State:	MA
Zip Code:	02110	Zip Ext:	1300
Telephone:	617-727-3300	Tel Ext:	169
Fascimile:	617-727-7403	Representing:	Murphy, Robert (Defendant)

**Attorney
Involved:**

Last Name: Brenner
Address: 70 Franklin Street
City: Boston
Zip Code: 02110
Telephone: 617-727-3300
Fascimile: 617-727-7403

Firm Name:

MA14

First Name:

Jody A

Address:

Suite 600

State:

MA

Zip Ext:

1300

Tel Ext:

169

Representing:

Murphy, Joseph (Defendant)

**Attorney
Involved:**

Last Name: Brenner
Address: 70 Franklin Street
City: Boston
Zip Code: 02110
Telephone: 617-727-3300
Fascimile: 617-727-7403

Firm Name:

MA14

First Name:

Jody A

Address:

Suite 600

State:

MA

Zip Ext:

1300

Tel Ext:

169

Representing:

Murray, Mary (Defendant)

**Attorney
Involved:**

Last Name: Brenner
Address: 70 Franklin Street
City: Boston
Zip Code: 02110
Telephone: 617-727-3300
Fascimile: 617-727-7403

Firm Name:

MA14

First Name:

Jody A

Address:

Suite 600

State:

MA

Zip Ext:

1300

Tel Ext:

169

Representing:

Brady, Elizabeth (Defendant)

**Attorney
Involved:**

Last Name: Brenner
Address: 70 Franklin Street
City: Boston
Zip Code: 02110
Telephone: 617-727-3300
Fascimile: 617-727-7403

Firm Name:

MA14

First Name:

Jody A

Address:

Suite 600

State:

MA

Zip Ext:

1300

Tel Ext:

169

Representing:

Mansfield, Brian (Defendant)

**Attorney
Involved:**

Last Name: Brenner
Address: 70 Franklin Street

Firm Name:

MA14

First Name:

Jody A

Address:

Suite 600

City:	Boston	State:	MA
Zip Code:	02110	Zip Ext:	1300
Telephone:	617-727-3300	Tel Ext:	169
Fascimile:	617-727-7403	Representing:	Frigault, Bendan (Defendant)

Calendar Events

5 Calendar Events for Docket: PLCV2007-00575

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	08/06/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
2	08/27/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
3	09/04/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
4	10/10/2007	16:00	Status: Clerk Follow UP	B	Event held as scheduled
5	12/07/2007	14:00	Motion/Hearing: Rule12 to Dismiss	B	Event canceled not re-scheduled

Full Docket Entries

79 Docket Entries for Docket: PLCV2007-00575

Entry Date:	Paper No:	Docket Entry:
05/04/2007	1	Affidavit of Indigency-Indigency established at this time filing fee
05/04/2007	1	waived, service to be completed by sheriff at defendant's place of
05/04/2007	1	employment (David A. McLaughlin, Justice)
05/04/2007		Origin 1, Type D13, Track A.
05/04/2007	2	Complaint & civil action cover sheet filed
05/04/2007	3	Pltff's MOTION for service by sheriff
05/08/2007	4	MOTION (P#3) No Action Pending Receipt of currant Canteen Account
05/08/2007	4	(David A. McLaughlin). Notices mailed 5/8/2007
05/08/2007		Tracking order, administrative directive 92-1 and 9 summons sent to
05/08/2007		pltff
05/14/2007	5	Pltff's MOTION to stay action
05/15/2007	6	MOTION (P#5) Denied without prejudice to be renewed if necessary
05/15/2007	6	(David A. McLaughlin, Justice). Notices mailed 5/15/2007
06/18/2007		Copy of docket sheet sent to plaintiff
06/18/2007		Plymouth County Sheriff's Dept picked up copies of case for service
06/22/2007	7	SERVICE RETURNED: Manuel Botelho(Defendant) in hand to Doreen Walcott
06/22/2007	7	agent/person in charge

06/22/2007	8	SERVICE RETURNED: Bendan Frigault(Defendant) in hand to Doreen
06/22/2007	8	Walcott agent/person in charge
06/22/2007	9	SERVICE RETURNED: Brian Mansfield(Defendant) in hand to Doreen
06/22/2007	9	Walcott agent/person in charge
06/22/2007	10	SERVICE RETURNED: Michael Thomas(Defendant) in hand to Doreen Walcott
06/22/2007	10	agent/person in charge
06/22/2007	11	SERVICE RETURNED: Mary Murray(Defendant) in hand to Doreen Walcott
06/22/2007	11	agent/person in charge
06/22/2007	12	SERVICE RETURNED: Natalya Pushkina(Defendant) in hand to Doreen
06/22/2007	12	Walcott agent/person in charge
06/22/2007	13	SERVICE RETURNED: Robert Murphy(Defendant) in hand to Doreen Walcott
06/22/2007	13	agent/person in charge
07/09/2007	14	Defts Natalya Pushkina and Manuel Botelho's MOTION to enlarge time
07/09/2007	14	for responding to plttf's complaint 30 days to August 8, 2007
07/10/2007	15	AFFIDAVIT (P#1) Service modified on defendants not yet served.
07/10/2007	15	Service ordered by sheriff at last & usual place of employment
07/10/2007	15	(Richard F. Connon, Justice)
07/11/2007		Package sent to Plymouth County Sheriff's Dept for service in
07/11/2007		accordance with (P#15)
07/16/2007	16	MOTION (P#14) Allowed. (Richard F. Connon, Justice). Notices mailed
07/16/2007	16	7/17/2007
07/24/2007	17	SERVICE RETURNED: Joseph Murphy(Defendant)
07/24/2007	18	SERVICE RETURNED: Elizabeth Brady(Defendant)
07/24/2007	19	Defts Michael Thomas and Robert Murphy's MOTION to enlarge time to
07/24/2007	19	file a responsive pleading up to and including August 24, 2007
07/26/2007	20	MOTION (P#19) Allowed (Richard F. Connon, Justice). Notices mailed
07/26/2007	20	7/27/2007
07/27/2007	21	Defts' MOTION to enlarge time to file a responsive pleading up to and
07/27/2007	21	including August 24, 2007
07/30/2007	22	Plttf's opposition to defts' motion to enlarge time (P#21)
07/30/2007	23	MOTION (P#21) Allowed (Richard F. Connon, Justice). Notices mailed
07/30/2007	23	7/31/2007
08/02/2007		Tracking order to all counsel
08/22/2007	24	Defts Robert Murphy, Joseph Murphy, Mary Murray, Elizabeth Brady,
08/22/2007	24	Brian Mansfield, Bendan Frigault and Michael Thomas's MOTION to
08/22/2007	24	enlarge time to file a responsive pleading up to and including
08/22/2007	24	September 7, 2007
08/23/2007	25	MOTION (P#24) ALLOWED. (Richard F. Connon, Justice) Notices mailed
08/23/2007	25	8/24/2007
08/29/2007	26	Defts Natalya Pushkina and Manuel Botelho's MOTION for Summary
08/29/2007	26	Judgment, pursuant to Mass.R.Civ.P. 56

09/04/2007	27	MOTION (P#26) Plaintiff has 30 days to respond (Richard F. Connon,
09/04/2007	27	Justice). Notices mailed 9/4/2007
09/05/2007	28	Defts Robert Murphy, Joseph Murphy, Mary Murray, Elizabeth Brady,
09/05/2007	28	Brian Mansfield, Bendan Frigault and Michael Thomas's MOTION to
09/05/2007	28	Dismiss (MRCP 12b6)
09/06/2007	29	MOTION (P#28) Plaintiff has 30 days to respond (Richard F. Connon,
09/06/2007	29	Justice). Notices mailed 9/6/2007
09/27/2007	30	Docket sheets mailed to plaintiff 9-28-07
11/02/2007	31	Defts Robert Murphy, Joseph Murphy, Mary Murray, Elizabeth Brady,
11/02/2007	31	Brian Mansfield, Bendan Frigault and Michael Thomas's RENEWED MOTION
11/02/2007	31	to dismiss
11/07/2007	32	Notice sent to appear on 12/7/2007 for a hearing on DOC depts'
11/07/2007	32	renewed motion to dismiss (P#31)
11/07/2007	33	Habeas corpus ad testificandum issued as to Joseph Schmitt at
11/07/2007	33	Nemasket Correctional Center on 12/7/2007 in the Superior Court
11/07/2007	33	Courtroom
11/08/2007	34	Pltff's EMERGENCY MOTION for enlargement of time to February 15, 2008
11/08/2007	34	to respond to DOC depts' motion to dismiss and for an order to
11/08/2007	34	reserve their motion allegedly served on pltff 9/5/07
11/08/2007	35	Pltff's EMERGENCY MOTION for enlargement of time to January 31, 2008
11/08/2007	35	to respond to defts Pushkina and Botelho's motion for summary judgment

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 07-2177

JOSEPH P. SCHMITT
Plaintiff - Appellant

NOV 13 2007

v.

THOMAS CARTER; ERNEST THERIEN;
MASSACHUSETTS DEPARTMENT OF CORRECTIONS;
WILLIAM GROSSI; PETER ALLEN;
MASSACHUSETTS DEPARTMENT OF PUBLIC SAFETY
Defendants - Appellees

PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME TO FILE BRIEF

Now comes the pro se plaintiff-appellant and moves the Court for an enlargement of time to file his brief up to and including January 14, 2008.

As grounds for the above captioned motion plaintiff-appellant states the following under pains and penalties of perjury:

1. Plaintiff is civilly committed pursuant of G.L. c. 123A at the Nemasket Correctional Facility (Treatment Center at Bridgewater).
2. The Department of Correction has failed to make the law library accessible to the population due to shortage of staff and other such administrative issues.
3. Plaintiff-Appellant has a great deal of legal issues currently filed in the Commonwealth's Superior Courts', U.S.D.C., and in this Appeals Court. He is over-stretched and just recently has been able to actively file oppositions and other such motions in his numerous State and Federal civil actions.
4. The Department of Correction and other defendants have filed numerous motions in the numerous civil actions plaintiff-appellant has within the Courts of the Commonwealth.
5. Being pro se and inexperienced with the legal world plaintiff-appellant requires more time to conduct research and to compile a written motion or other such pleading in his various cases.
6. At the present time it is believed by plaintiff-appellant that he has approximately 3-4 U.S. Court of Appeal cases to file a brief in, and several Motions to Dismiss to respond to in the Superior Court cases he has filed in the

Commonwealth's Superior Courts, and other issues within the U.S.D.C. cases.

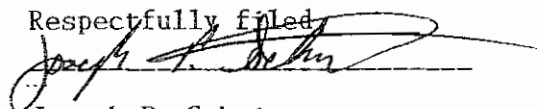
7. Most importantly, plaintiff-appellant is in the process of trying to obtain Transcripts/Evidence used in his G.L. c.123A SDP case at the Worcester Superior Court. Said material is vital to his case preparation. AS of this date neither the Worcester Superior Court or former Counsel Christopher P. LoConto has responded to requests made upon them by plaintiff-appellant.

8. Plaintiff-Appellant apologizes to this Honorable Court for his failure to file a motion for enlargement of time in a more timely manner, and begs this Court's indulgence in this matter.

WHEREFORE, Plaintiff-Appellant prays this Honorable Court allow Plaintiff's-Appellant's motion for enlargement of time up to and including January 14,2008, and further states that such enlargement in no way prejudices the defendants'-appellees.

Dated: November 2,2007

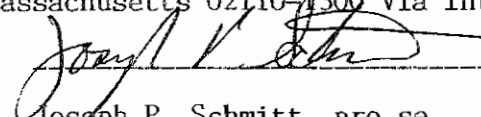
Respectfully filed,



Joseph P. Schmitt, pro se
Plaintiff-Appellant
Nemasket Correctional Facility
30 Administration Road
Bridgewater, Massachusetts
02324-3230

CERTIFICATE OF SERVICE

Undersigned pro se plaintiff-appellant hereby certify that a true copy of the above motion was served upon opposing counsel, C. Raye Poole at 70 Franklin Street, Suite 600, Boston, Massachusetts 02110-1300 via Inter-Department Mail on or about November 6,2007



Joseph P. Schmitt, pro se
Plaintiff-Appellant